

FROM :BLACKS AKTSJ

FAX NO. :361-586-4492

Aug. 31 2009 09:23PM P1

RECEIVED

AUG 13 2009

Texas Commission on Environmental Quality
Commissioners' Offices

August 10, 2009

Les Trobman, General Counsel

Texas Commission on Environmental Quality

PO Box 13087

Austin Texas 78711-3087

RE: SOAH Docket No. 582-09-1615; TCEQ Docket No. 2008-1234-MSW-E;

In RE: The Matter of Enforcement Action Against Alan Black

Dear Mr. Trobman:

I Jenette Black wife of Alan Black would like to inform you that Mr. Alan Black is out of the country since June 26, 2009 to September 26, 2009.

I am sending you this letter with regards to the decision that was made by Judge Karrie Jo Qualtrough. As per my opinion the decision is not fair and it is bias considering that Black Contruction and Calitche Pit closed on December 2000. Anything happen during that time should be penalized in 2000 not after five years. In addition, my husband is out of the country from August 12, 2002 to December 19, 2005 and he is not doing anything with his property since then. He did not violated MSW rule when this case was filed since he is not here and we give you a copy of his passport.

Based on Chapter 330.4 (d) A permit is not required for a MSW transfer station facility that is used in the transfer of MSW to a solid waste processing or disposal facility from:

- (1) A municipality with a population of less than 50,000;
- (2) A county with a population of less than 85,000;
- (3) A facility used in the transfer of MSW that transfer or will transfer 125 tons per day or less.

With this chapter my husband did not violated any laws whatsoever. Permit is not required, if we based the violation in the above ruling. In addition my husband did not operate in that facility since 2001. After so many years that this property is not doing anything there is a violation?

When they caught somebody going there he is not here he was in the Philippines. He don't know nothing about it. He was not informed that Aguerro Trucking is going to his property. He left United State on August 12, 2002 and arrived in the Philippines on August 14, 2002 due to 26 hours travel time and 12 hours difference on time. Please note on the receipt shown on the record on September 11, 2002 issued to Aguerro Trucking, Alan Black is not present even on the check issued to him. He can prove that he did not issue the invoice and did not receive the check. Even when they caught the trucking going there he is not here and he was not informed regarding the dumping. He don't have any communication to Yolanda Black nor Aguerro Trucking during that time.

In good faith we try our best to clean up the property as soon as we came back from the Philippines in

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 SEP -1 AM 8:01
CHIEF CLERKS OFFICE

December 21, 2005. There is no consideration whatsoever in what he did to clean it up.

As per my opinion the fine should be divided equally to Yolanda and Alan if both of them are found guilty. The fine should not be based on capacity to pay. The capacity to pay is beside the point if you submit the requirements or not. In addition Yolanda Black is the one created this problem. She should be penalized more and she was here all this years when the violation was made and she did not do anything to clean this property.

Just want to emphasize why he did not send the tax return due to the fact that my husband was sick when they send us the notice he was rush to the hospital on March 27, 2009. He was confined for four days. And he need to take a rest for thirty days due to walking pneumonia, high blood pressure, just had angiogram for his heart and diabetes. He should not have any stress and pressure then. After that I had an operation for my ovary. We were too busy to go back and port to the doctor for the schedule of my operation which was done on May 11, 2009 in San Antonio. I was confined at the hospital for five days. Alan is with me during that time. Alan inform you regarding this matter in his affidavit. I can send you a proof of this hospitalization.

As what Becky Combs said during the trial health is "not an excuse". What a nice comment. I thought TECQ worry about the health of the people.


In addition my husband had very poor health condition with his type 1 diabetes (fully insulin dependent), high blood pressure and poor heart condition. This kind of problem aggravates his condition. That is why he cannot work no more. Having this kind of problem since we come back from the Philippines caused him depression, anxiety, high blood pressure and uncontrolled sugar.

With regards to his income, he is getting disability benefit and all he is getting is not enough to pay for his medication and doctors visits. I will send you copy of our 2008 income tax return together with our credit card bills and medical bills.

In addition my mother in law issued a check payable to TECQ on March 1, 2005 in the amount of Three Thousand Seven Hundred Fifty. This should be the payment of Alan Black for his share of the penalty.

I am writing you this letter to review and give him consideration.

Thank you for your consideration.


Jenette Black